RULES OF JUDICIAL ADMINISTRATION
- Updated With Amendments Effective May 1, 2012 -

Rule 1. Authority

These rules are promulgated pursuant to Section 74.024 of the Texas Government Code.

Rule 2. Definitions

In these rules:

a. "Chief Justice" means the Chief Justice of the Supreme Court.

b. "Presiding Judge" means the presiding judge of an administrative region.

c. "Administrative region" means an administrative judicial region created by Section 74.042 of the Texas Government Code.

d. "Statutory county court" means a court created by the legislature under Article V, Section 1, of the Texas Constitution, including county courts at law, county criminal courts, county criminal courts of appeals, and county civil courts at law, but not including statutory probate courts as defined by Section 3(ii) of the Texas Probate Code.

Rule 3. Council of Presiding Judges

a. There is hereby created the Council of Presiding Judges, composed of the Chief Justice as chairman and the nine presiding judges of the administrative regions.

b. The Chief Justice shall call and preside over an annual meeting of the Council on a date and at a time and place in the State designated by the Chief Justice.

c. The Chief Justice may call and convene additional meetings of the Council that he considers necessary for the promotion of the orderly and efficient administration of justice.

d. At the will of the Chief Justice, the Council may choose one of its members to serve as chairman, who will serve for a period of two years.

e. At the meetings, the Council shall:

(1) study the condition of the dockets of the courts of the State to determine the existence of:

(a) a significant increase in the number of new cases filed;

(b) a disposition rate below the state average;

(c) fewer cases disposed of than new cases filed;

(d) an excessive number of cases pending on the docket for a lengthy period of time;

(e) a large number of inactive tax cases, non-arrest criminal cases, cases held pending action in other courts or other cases which are not ready for disposition;

(f) cases tried and awaiting the entry of judgment;

(g) the need for technical assistance in caseflow or case management; and

(h) the need for the assignment of visiting judges to any court;

(2) compare the regional and local rules of court to achieve the uniformity of rules that is practicable and consistent with local conditions;

(3) consider uniformity in the administration of Chapter 74 of the Texas Government Code in the various administrative regions; and

(4) promote more effective administration of justice through the use of Chapter 74 of the Texas Government Code.

f. The Office of Court Administration shall provide the necessary staff support for the operation of the Council and at the direction of the Chief Justice shall provide the Council with information concerning the operation of the courts of this State.

Rule 4. Council of Judges

a. There is hereby created in each of the administrative regions a Council of Judges, composed of the Presiding Judge as Chairman, judges of the district courts and statutory county courts within the region, senior judges, and former district and statutory county court judges residing in the region who have qualified to serve as judicial officers under the provisions of Section 74.055 of the Texas Government Code.

b. The Presiding Judge shall call at least one meeting each year of the Council of Judges of the administrative region, at a time and place designated by the Presiding Judge, for consultation and counseling on the state of the dockets and the civil and criminal business in the district and statutory county courts of the administrative region and arranging for the disposition of cases and other business pending on the court dockets. At the meeting, the Council shall study and act upon the matters listed in Rule 3.e and such other matters as may be presented to the meeting by the judges in attendance.

c. The Council of Judges shall adopt rules for the administration of the affairs of the district and statutory county courts within the administrative region, including, but not limited to, rules for:

(1) management of the business, administrative and nonjudicial affairs of the courts;

(2) docket management systems to provide the most efficient use of available court resources;

(3) the reporting of docket status information to reflect not only the numbers of cases on the dockets but also the types of cases relevant to the time needed to dispose of them;

(4) meaningful procedures for achieving the time standards for the disposition of cases provided by Rule 6;

(5) such other matters necessary to the administrative operations of the courts; and

(6) judicial budget matters.

d. The expenses of judges attending meetings of the Council of Judges may be paid from funds provided by law.

Rule 5. Duties of the Presiding Judge.

In addition to the duties placed on Presiding Judges by law and these rules, each Presiding Judge should oversee the general docket management, the prompt disposition of all cases filed in each district and statutory county court within the region, and the proper administration of the affairs of the courts within the administrative region. The Presiding Judge shall:

a. ensure the adoption of uniform local rules;

b. hold periodic meetings with the judges in counties with more than one court;

c. consult with each trial judge of the administrative region to implement more efficient methods of docket management;

d. study in detail the condition of the dockets in each county;

e. discover and encourage the implementation of systems to reduce delay in local dockets;

f. provide for the orientation and training of new judges in the administrative regions;

g. ensure adherence to the time standards provided by Rule 6 in the courts of the administrative region;

h. direct the district and county clerks within the regions to submit such statistical reports as may be requested by either the local administrative judge or the presiding judge; and

i. perform such other duties as may be assigned by the Chief Justice.

Rule 6. Time Standards for the Disposition of Cases.

Rule 6.1 District and Statutory County Courts.

District and statutory county court judges of the county in which cases are filed should, so far as reasonably possible, ensure that all cases are brought to trial or final disposition in conformity with the following time standards:

(a) **Criminal Cases**. As provided by Article 32A.02, Code of Criminal Procedure.

(b) **Civil Cases Other Than Family Law**.

(1) *Civil Jury Cases*. Within 18 months from appearance date.

(2) *Civil Nonjury Cases*. Within 12 months from appearance date.

(c) **Family Law Cases.**

(1) *Contested Family Law Cases*. Within 6 months from appearance date or within 6 months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later.

(2) *Uncontested Family Law Cases*. Within 3 months from appearance date or within 3 months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later.

(d) **Juvenile Cases.** In addition to the requirements of Title 3, Texas Family Code:

(1) *Detention Hearings*. On the next business day following admission to any detention facility.

(2) *Adjudicatory or Transfer (Waiver) Hearings*.

(a) Concerning a juvenile in a detention facility: Not later than 10 days following admission to such a facility, except for good cause shown of record.

(b) Concerning a juvenile not in a detention facility: Not later than 30 days following the filing of the petition, except for good cause shown of record.

(3) *Disposition Hearing*. Not later than 15 days following the adjudicatory hearing. The court may grant additional time in exceptional cases that require more complex evaluation.

(4) Nothing herein shall prevent a judge from recessing a juvenile hearing at any stage of the proceeding where the parties are agreeable or when in the opinion of the judge presiding in the case the best interests of the child and of society shall be served.

(e) Complex Cases. It is recognized that in especially complex cases or special circumstances it may not be possible to adhere to these standards.

Rule 6.2 Appeals in Certain Cases Involving the Parent-Child Relationship.

In an appeal of a suit for termination of the parent-child relationship or a suit affecting the parent-child relationship filed by a governmental entity for managing conservatorship, appellate courts should, so far as reasonably possible, ensure that the appeal is brought to final disposition in conformity with the following time standards:

(a) Courts of Appeals. Within 180 days of the date the notice of appeal is filed.

(b) Supreme Court. Within 180 days of the date the petition for review is filed.

Rule 7. Administrative Responsibilities.

a. A district or statutory county court judge shall:

(1) diligently discharge the administrative responsibilities of the office;

(2) rule on a case within three months after the case is taken under advisement;

(3) if an election contest or a suit for the removal of a local official is filed in his court, request the presiding judge to assign another judge who is not a resident of the county to dispose of the suit;

(4) on motion by either party in a disciplinary action against an attorney, request the presiding judge to assign another judge who is not a resident of the administrative region where the action is pending to dispose of the case;

(5) request the presiding judge to assign another judge of the administrative region to hear a motion relating to the recusal or disqualification of the judge from a case pending in his court; and

(6) to the extent consistent with safeguarding the rights of litigants to the just processing of their causes, utilize methods to expedite the disposition of cases on the docket of the court, including

(a) adherence to firm trial dates with strict continuance policies;

(b) the use of telephone or mail in lieu of personal appearance by attorneys for motion hearings, pretrial conferences, scheduling and the setting of trial dates;

(c) pretrial conferences to encourage settlements and to narrow trial issues;

(d) taxation of costs and imposition of other sanctions authorized by the Rules of Civil Procedure against attorneys or parties filing frivolous motions or pleadings or abusing discovery procedures; and

(e) local rules, consistently applied, to regulate docketing procedures and timely pleadings, discovery and motions.

Rule 8. Assignment of Judges.

a. Judges may be assigned in the manner provided by Chapter 74 of the Texas Government Code to hold court when:

(1) the regular judge of the court is absent or is disabled, recuses himself, or is recused under the provisions of Rule 18a, T.R.C.P., or is disqualified for any cause;

(2) the regular judge of the court is present and is trying cases as authorized by the constitution and laws of this State; or

(3) the office of the judge is vacant because of death, resignation, or other cause.

b. A Presiding Judge from time to time shall assign the judges of the administrative region, including qualified retired appellate judges, to hold special or

regular terms of court in any county of the administrative region to try cases and dispose of accumulated business.

c. The Presiding Judge of one administrative region may request the Presiding Judge of another administrative region to furnish judges to aid in the disposition of litigation pending in a court in the administrative region of the Presiding Judge who makes the request.

d. In addition to the assignment of judges by the Presiding Judges as authorized by Chapter 74 of the Texas Government Code, the Chief Justice may assign judges of one or more administrative regions for service in other administrative regions when he considers the assignment necessary to the prompt and efficient administration of justice. A judge assigned by the Chief Justice shall perform the same duties and functions that the judge would perform if he were assigned by the Presiding Judge.

Rule 9. Local Administrative Judges.

a. In any county in which there are two or more district courts, the judges of those courts shall elect one of the district judges as the local administrative district judge. In any county in which there are two or more statutory county courts, the judges of those courts shall elect one of the statutory county court judges as the local administrative statutory county court judge. If a local administrative district judge or a local administrative statutory county court judge is not so chosen, the Presiding Judge of the administrative region shall designate one of the qualified judges of the county as the local administrative district judge or the local administrative statutory county court judge. The local administrative judges shall be responsible to the Presiding Judge of the administrative region for the expeditious dispatch of business in the district and statutory county courts of the county.

b. Under the direction of the local administrative judge, the district and statutory county court judges of the county shall adopt rules to provide for the orderly administration of the affairs of the district and statutory county courts of the county. The rules shall employ a uniform and consistent numbering system approved by the Supreme Court and the Council of Presiding Judges. These rules shall provide, among other matters, for the orderly discharge of the local judicial responsibilities for matters relating to:

(1) docket management of the local courts;

(2) regular meetings to address the matters set forth in Rule 3.e.;

(3) judicial budget matters;

(4) adult and juvenile probation matters;

(5) County Auditor matters;

(6) county purchasing matters;

(7) relationship with other governmental bodies, the public, and the news media;

(8) such other matters necessary to provide for the orderly, prompt, efficient, and effective administration of justice in the county;

(9) court reporters and timely preparation of records; and

(10) dismissals for want of prosecution so as to achieve and maintain compliance with the time standards of Rule 6.

Rule 10. Local Rules.

The local rules adopted by the courts of each county shall conform to all provisions of state and administrative region rules. If approved by the Supreme Court pursuant to Rule 3a, T.R.C.P., the local rules shall be published and available to the Bar and public, and shall include the following:

a. In multi-court counties having two or more court divisions, each division must adopt a single set of local rules which shall govern all courts in the division.

b. Provisions for fair distribution of the caseload among the judges in the county.

c. Provisions to ensure uniformity of forms to be used by the courts under Rules 165a and 166, T.R.C.P.

d. Designation of the responsibility for emergency and special matters.

e. Plans for judicial vacation, sick leave, attendance at educational programs, and similar matters.

Rule 11. Pretrial Proceedings in Certain Cases.

11.1 Applicability. This rule applies to any case filed before September 1, 2003, that involves material questions of fact and law in common with another case pending in another court in another county on or after October 1, 1997.

11.2 Definitions.

(a) *Presiding judge* means the presiding judge of an administrative judicial region in which a case is pending;

(b) *Regular judge* means the regular judge of a court in which a case is pending.

(c) *Pretrial judge* means a judge assigned under this rule.

(d) *Related* means that cases involve common material issues of fact and law.

11.3 Assignment of Pretrial Judge.

(a) *By presiding judge*. On motion or request under 11.4, a presiding judge may assign an active district judge, including himself or herself, to a case to conduct all pretrial proceedings and decide all pretrial matters.

(b) *Authority of pretrial judge*. The pretrial judge will preside over all pretrial proceedings in the case in place of the regular judge. The pretrial judge will decide all pretrial motions, including motions to transfer venue and motions for summary judgment. The pretrial judge and the regular judge must consult on setting a trial date.

(c) *Different judges assigned*. The same pretrial judge need not be assigned in all related cases. If more than one pretrial judge is assigned in related cases, either in the same region or in different regions, the pretrial judges must consult with each other in conducting pretrial proceedings and deciding pretrial matters.

(d) *Assignment outside region*. The Chief Justice of the Supreme Court may assign an active district judge to other administrative regions to allow the judge to be assigned as a pretrial judge under this rule.

(e) *No objections to pretrial judge*. An assignment under this rule is not made pursuant to section 74.054 of the Government Code, and therefore a pretrial judge is not subject to an objection under section 74.053 of the Government Code.

(f) *Termination of assignment*. An assignment under this rule terminates when:

(i) all pretrial proceedings in a case have been completed;

(ii) the pretrial judge ceases to be an active district judge; or

(iii) the presiding judge in the exercise of discretion terminates the assignment.

11.4 Procedure for Obtaining Assignment of a Pretrial Judge.

(a) *Motion or request required*; *who may file.* A pretrial judge may be assigned only on the motion of a party to a case or at the request of the regular judge.

(b) *Contents of motion or request*. The motion or request must state:

(1) the number and style of the case;

(2) the number and style of the related case, and the court and county in which it is pending;

(3) the material questions of fact and law common to the cases;

(4) the reasons why the assignment would promote the just and efficient conduct of the action; and

(5) whether all parties agree to the motion.

(c) *Where filed*. The motion or request must be filed in all cases identified under (b)(1) and (b)(2).

(d) *Response*. A response may be filed by:

(1) any other party to the case;

(2) the regular judge of the court in which the case is pending;

(3) the regular judge of the court in which the related case is pending, if no pretrial judge has already been assigned in that case;

(4) the pretrial judge assigned to the related case, if a pretrial judge has already been assigned; and

(5) any party to the related case.

(e) *Briefs*. A motion, request, or response may be accompanied by a brief. The presiding judge may request briefs.

(f) *Hearing*. Unless all parties in the case agree to a motion or request, the presiding judge may not grant the motion without conducting an oral hearing. The hearing may be held in any county within the region or in Travis County. The presiding judge must give notice of the time and place for the hearing to all parties and the regular or pretrial judges in the cases identified in (b)(1) and (b)(2).

(g) *Evidence*. In ruling on the motion or request, the presiding judge may consider all documents filed in the case or the related case, all discovery conducted in the case or the related case, any stipulations filed by the parties in the case or the related case, affidavits filed in connection with the motion, request, or response, and oral testimony.

(h) *Decision*. The presiding judge must grant the motion or request if the judge determines that:

(1) the case involves material questions of fact and law common to a case in another court and county; and

(2) assignment of a pretrial judge would promote the just and efficient conduct of the cases.

Otherwise, the presiding judge must deny the motion or request.

(i) *Order*. The presiding judge must issue an order deciding the motion or request. The order must be filed in the case in which assignment of a pretrial judge was sought.

(j) *Service and notice*. A party must serve any paper filed under this rule on all parties to the cases identified under (b)(1) and (b)(2) and on the presiding judge or judges for those cases. If a judge files any paper under this rule, the clerk of the court in which the paper is filed must send a copy to all parties to the cases identified under (b)(1) and (b)(2) and to the presiding judge or judges for those cases. The clerk of the court where a case is pending in which assignment of a pretrial judge is sought shall serve as the clerk for the presiding judge under this rule.

11.5 Review. A presiding judge's order granting or denying a motion or request for appointment of a pretrial judge may be reviewed only by the Supreme Court in an original mandamus proceeding.

11.6 Expenses of Pretrial Judge. If a pretrial judge travels outside the judge's county of residence to conduct proceedings, the county in which the proceedings are conducted must pay--on certification by the presiding judge of the administrative judicial region in which the other county is located--the pretrial judge's actual travel expenses and actual living expenses incurred for conducting the proceedings.

11.7 Relationhip to Rule 13.

(a) *Generally.* This rule is to be construed and applied so as to facilitate the implementation of Rule 13 to the greatest extent possible.

(b) *Application of Rule 13 by Agreement of the Parties.* Parties may agree to the application of Rule 13. Such an agreement must be in writing and must be joined by all parties to the case. An agreement is effective and irrevocable when it is filed with the trial court if:

(1) no pretrial judge has been appointed in the case, or

(2) a pretrial judge has been appointed in the case, and the parties in all related cases to which the same pretrial judge has been assigned have likewise agreed to the application of Rule 13.

(c) *Assignment of Pretrial Judges After September 1, 2003.* An assignment of a pretrial judge to any case after September 1, 2003, must be made in consultation with the Chair of the Multidistrict Litigation Panel.

(d) *Consultation of Pretrial Judges.* In conducting pretrial proceedings and deciding pretrial matters, a pretrial judge assigned under this rule must consult with the judge of a pretrial court to which related cases have been transferred under Rule 13.

Rule 12. Public Access to Judicial Records

12.1 Policy. The purpose of this rule is to provide public access to information in the judiciary consistent with the mandates of the Texas Constitution that the public interests are best served by open courts and by an independent judiciary. The rule should be liberally construed to achieve its purpose.

12.2 Definitions. In this rule:

(a) *Judge* means a regularly appointed or elected judge or justice.

(b) *Judicial agency* means an office, board, commission, or other similar entity that is in the Judicial Department and that serves an administrative function for a court. A task force or committee created by a court or judge is a "judicial agency".

(c) *Judicial officer* means a judge, former or retired visiting judge, referee, commissioner, special master, court-appointed arbitrator, or other person exercising adjudicatory powers in the judiciary. A mediator or other provider of non-binding dispute resolution services is not a "judicial officer".

(d) *Judicial record* means a record made or maintained by or for a court or judicial agency in its regular course of business but not pertaining to its adjudicative function, regardless of whether that function relates to a specific case. A record of any nature created, produced, or filed in connection with any matter that is or has been before a court is not a judicial record. A record is a document, paper, letter, map, book, tape, photograph, film, recording, or other material, regardless of electronic or physical form, characteristics, or means of transmission.

(e) *Records custodian* means the person with custody of a judicial record determined as follows:

(1) The judicial records of a court with only one judge, such as any trial court, are in the custody of that judge. Judicial records pertaining to the joint administration of a number of those courts, such as the district courts in a particular county or region, are in the custody of the judge who presides over the joint administration, such as the local or regional administrative judge.

(2) The judicial records of a court with more than one judge, such as any appellate court, are in the custody of the chief justice or presiding judge, who must act under this rule in accordance with the vote of a majority of the judges of the court. But the judicial records relating specifically to the service of one such judge or that judge's own staff are in the custody of that judge.

(3) The judicial records of a judicial officer not covered by subparagraphs (1) and (2) are in the custody of that officer.

(4) The judicial records of a judicial agency are in the custody of its presiding officer, who must act under this rule in accordance with agency policy or the vote of a majority of the members of the agency.

12.3 Applicability. This rule does not apply to:

(a) records or information to which access is controlled by:

(1) a state or federal court rule, including:

(A) a rule of civil or criminal procedure, including Rule 76a, Texas Rules of Civil Procedure;

(B) a rule of appellate procedure;

(C) a rule of evidence;

(D) a rule of administration;

(2) a state or federal court order not issued merely to thwart the purpose of this rule;

(3) the Code of Judicial Conduct;

(4) Chapter 552, Government Code, or another statute or provision of law;

(b) records or information to which Chapter 552, Government Code, is made inapplicable by statute, rule, or other provision of law, other than Section 552.003(1)(B);

(c) records or information relating to an arrest or search warrant or a supporting affidavit, access to which is controlled by:

(1) a state or federal court rule, including a rule of civil or criminal procedure, appellate procedure, or evidence; or

(2) common law, court order, judicial decision, or another provision of law

(d) elected officials other than judges.

12.4 Access to Judicial Records.

(a) ***Generally***. Judicial records other than those covered by Rules 12.3 and 12.5 are open to the general public for inspection and copying during regular business hours. But this rule does not require a court, judicial agency, or records custodian to:

(1) create a record, other than to print information stored in a computer;

(2) retain a judicial record for a specific period of time;

(3) allow the inspection of or provide a copy of information in a book or publication commercially available to the public; or

(4) respond to or comply with a request for a judicial record from or on behalf of an individual who is imprisoned or confined in a correctional facility as defined in Section 1.07(a), Penal Code, or in any other such facility in any state, federal, or foreign jurisdiction.

(b) ***Voluntary Disclosure***. A records custodian may voluntarily make part or all of the information in a judicial record available to the public, subject to Rules 12.2(e)(2) and 12.2(e)(4), unless the disclosure is expressly prohibited by law or exempt under this rule, or the information is confidential under law. Information voluntarily disclosed must be made available to any person who requests it.

12.5 Exemptions from Disclosure. The following records are exempt from disclosure under this rule:

(a) ***Judicial Work Product and Drafts***. Any record that relates to a judicial officer's adjudicative decision-making process prepared by that judicial officer, by another judicial officer, or by court staff, an intern, or any other person acting on behalf of or at the direction of the judicial officer.

(b) ***Security Plans***. Any record, including a security plan or code, the release of which would jeopardize the security of an individual against physical injury or jeopardize information or property against theft, tampering, improper use, illegal disclosure, trespass, unauthorized access, or physical injury.

(c) ***Personnel Information***. Any personnel record that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy.

(d) ***Home Address and Family Information***. Any record reflecting any person's home address, home or personal telephone number, social security number, or family members.

(e) ***Applicants for Employment or Volunteer Services***. Any records relating to an applicant for employment or volunteer services.

(f) ***Internal Deliberations on Court or Judicial Administration Matters***. Any record relating to internal deliberations of a court or judicial agency, or among judicial officers or members of a judicial agency, on matters of court or judicial administration.

(g) ***Court Law Library Information***. Any record in a law library that links a patron's name with the materials requested or borrowed by that patron.

(h) ***Judicial Calendar Information***. Any record that reflects a judicial officer's appointments or engagements that are in the future or that constitute an invasion of personal privacy.

(i) ***Information Confidential Under Other Law***. Any record that is confidential or exempt from disclosure under a state or federal constitutional provision, statute or common law, including information that relates to:

(1) a complaint alleging misconduct against a judicial officer, if the complaint is exempt from disclosure under Chapter 33, Government Code, or other law;

(2) a complaint alleging misconduct against a person who is licensed or regulated by the courts, if the information is confidential under applicable law; or

(3) a trade secret or commercial or financial information made privileged or confidential by statute or judicial decision.

(j) ***Litigation or Settlement Negotiations***. Any judicial record relating to civil or criminal litigation or settlement negotiations:

(1) in which a court or judicial agency is or may be a party; or

(2) in which a judicial officer or member of a judicial agency is or may be a party as a consequence of the person's office or employment.

(k) ***Investigations of Character or Conduct***. Any record relating to an investigation of any person's character or conduct, unless:

(1) the record is requested by the person being investigated; and

(2) release of the record, in the judgment of the records custodian, would not impair the investigation.

(l) ***Examinations***. Any record relating to an examination administered to any person, unless requested by the person after the examination is concluded.

12.6 Procedures for Obtaining Access to Judicial Records.

(a) ***Request***. A request to inspect or copy a judicial record must be in writing and must include sufficient information to reasonably identify the record requested. The request must be sent to the records custodian and not to a court clerk or other agent for the records custodian. A requestor need not have detailed knowledge of the records custodian's filing system or procedures in order to obtain the information.

(b) ***Time for Inspection and Delivery of Copies***. As soon as practicable--and not more than 14 days--after actual receipt of a request to inspect or copy a judicial record, if the record is available, the records custodian must either:

(1) allow the requestor to inspect the record and provide a copy if one is requested; or

(2) send written notice to the requestor stating that the record cannot within the prescribed period be produced or a copy provided, as applicable, and setting a reasonable date and time when the document will be produced or a copy provided, as applicable.

(c) ***Place for Inspection***. A records custodian must produce a requested judicial record at a convenient, public area.

(d) ***Part of Record Subject to Disclosure***. If part of a requested record is subject to disclosure under this rule and part is not, the records custodian must redact the portion of the record that is not subject to disclosure, permit the remainder of the record to be inspected, and provide a copy if requested.

(e) ***Copying; Mailing***. The records custodian may deliver the record to a court clerk for copying. The records custodian may mail the copy to a requestor who has prepaid the postage.

(f) ***Recipient of Request not Custodian of Record***. A judicial officer or a presiding officer of a judicial agency who receives a request for a judicial record not in his or her custody as defined by this rule must promptly attempt to ascertain who the custodian of the record is. If the recipient of the request can ascertain who the custodian of the requested record is, the recipient must promptly refer the request to that person and notify the requestor in writing of the referral. The time for response prescribed in Rule 12.6(b) does not begin to run until the referral is actually received by the records custodian. If the recipient cannot ascertain who the custodian of the requested record is, the recipient must promptly notify the requestor in writing that the recipient is not the custodian of the record and cannot ascertain who the custodian of the record is.

(g) ***Inquiry to Requestor***. A person requesting a judicial record may not be asked to disclose the purpose of the request as a condition of obtaining the judicial record. But a

records custodian may make inquiry to establish the proper identification of the requestor or to clarify the nature or scope of a request.

(h) ***Uniform Treatment of Requests***. A records custodian must treat all requests for information uniformly without regard to the position or occupation of the requestor or the person on whose behalf a request is made, including whether the requestor or such person is a member of the media.

12.7 Costs for Copies of Judicial Records; Appeal of Assessment.

(a) ***Cost***. The cost for a copy of a judicial record is either:

(1) the cost prescribed by statute, or

(2) if no statute prescribes the cost, the cost the Office of the Attorney General prescribes by rule in the Texas Administrative Code.

(b) ***Waiver or Reduction of Cost Assessment by Records Custodian***. A records custodian may reduce or waive the charge for a copy of a judicial record if:

(1) doing so is in the public interest because providing the copy of the record primarily benefits the general public, or

(2) the cost of processing collection of a charge will exceed the amount of the charge.

(c) ***Appeal of Cost Assessment***. A person who believes that a charge for a copy of a judicial record is excessive may appeal the overcharge in the manner prescribed by Rule 12.9 for the appeal of the denial of access to a judicial record.

(d) ***Records Custodian not Personally Responsible for Cost***. A records custodian is not required to incur personal expense in furnishing a copy of a judicial record.

12.8 Denial of Access to a Judicial Record.

(a) ***When Request May be Denied***. A records custodian may deny a request for a judicial record under this rule only if the records custodian:

(1) reasonably determines that the requested judicial record is exempt from required disclosure under this rule; or

(2) makes specific, non-conclusory findings that compliance with the request would substantially and unreasonably impede the routine operation of the court or judicial agency.

(b) ***Time to Deny***. A records custodian who denies access to a judicial record must notify the person requesting the record of the denial within a reasonable time--not to exceed 14 days--after receipt of the request, or before the deadline for responding to the request extended under Rule 12.6 (b)(2).

(c) ***Contents of Notice of Denial***. A notice of denial must be in writing and must:

(1) state the reason for the denial;

(2) inform the person of the right of appeal provided by Rule 12.9; and

(3) include the name and address of the Administrative Director of the Office of Court Administration.

12.9 Relief from Denial of Access to Judicial Records.

(a) ***Appeal***. A person who is denied access to a judicial record may appeal the denial by filing a petition for review with the Administrative Director of the Office of Court Administration.

(b) ***Contents of Petition for Review***. The petition for review:

(1) must include a copy of the request to the record custodian and the records custodian's notice of denial;

(2) may include any supporting facts, arguments, and authorities that the petitioner believes to be relevant; and

(3) may contain a request for expedited review, the grounds for which must be stated.

(c) ***Time for Filing***. The petition must be filed not later than 30 days after the date that the petitioner receives notice of a denial of access to the judicial record.

(d) ***Notification of Records Custodian and Presiding Judges***. Upon receipt of the petition for review, the Administrative Director must promptly notify the records custodian who denied access to the judicial record and the presiding judge of each administrative judicial region of the filing of the petition.

(e) ***Response***. A records custodian who denies access to a judicial record and against whom relief is sought under this section may--within 14 days of receipt of notice from the Administrative Director--submit a written response to the petition for review and include supporting facts and authorities in the response. The records custodian must mail a copy of the response to the petitioner. The records custodian may also submit for in camera inspection any record, or a sample of records, to which access has been denied.

(f) ***Formation of Special Committee***. Upon receiving notice under Rule 12.9(d), the presiding judges must refer the petition to a special committee of not less than five of the presiding judges for review. The presiding judges must notify the Administrative Director, the petitioner, and the records custodian of the names of the judges selected to serve on the committee.

(g) ***Procedure for Review***. The special committee must review the petition and the records custodian's response and determine whether the requested judicial record should be made available under this rule to the petitioner. The special committee may request the records custodian to submit for in camera inspection a record, or a sample of records, to which access has been denied. The records custodian may respond to the request in whole or in part but it not required to do so.

(h) ***Considerations***. When determining whether the requested judicial record should be made available under this rule to petition, the special committee must consider:

(1) the text and policy of this Rule;

(2) any supporting and controverting facts, arguments, and authorities in the petition and the response; and

(3) prior applications of this Rule by other special committees or by courts.

(i) ***Expedited Review***. On request of the petitioner, and for good cause shown, the special committee may schedule an expedited review of the petition.

(j) ***Decision***. The special committee's determination must be supported by a written decision that must:

(1) issue within 60 days of the date that the Administrative Director received the petition for review;

(2) either grant the petition in whole or in part or sustain the denial of access to the requested judicial record;

(3) state the reasons for the decision, including appropriate citations to this rule; and

(4) identify the record or portions of the record to which access is ordered or denied, but only if the description does not disclose confidential information.

(k) ***Notice of Decision***. The special committee must send the decision to the Administrative Director. On receipt of the decision from the special committee, the Administrative Director must:

(1) immediately notify the petitioner and the records custodian of the decision and include a copy of the decision with the notice; and

(2) maintain a copy of the special committee's decision in the Administrative Director's office for public inspection.

(l) ***Publication of Decisions***. The Administrative Director must publish periodically to the judiciary and the general public the special committees' decisions.

(m) ***Final Decision***. A decision of a special committee under this rule is not appealable but is subject to review by mandamus.

(n) ***Appeal to Special Committee Not Exclusive Remedy***. The right of review provided under this subdivision is not exclusive and does not preclude relief by mandamus.

12.10 Sanctions. A records custodian who fails to comply with this rule, knowing that the failure to comply is in violation of the rule, is subject to sanctions under the Code of Judicial Conduct.

Comments

1. Although the definition of "judicial agency" in Rule 12.2(b) is comprehensive, applicability of the rule is restricted by Rule 12.3. The rule does not apply to judicial agencies whose records are expressly made subject to disclosure by statute, rule, or law. An example is the State Bar ("an administrative agency of the judicial department", Tex. Gov't Code § 81.011(a)), which is subject to the Public Information Act. Tex. Gov't Code § 81.033. Thus, no judicial agency must comply with both the Act and this rule; at most one can apply. Nor does the rule apply to judicial agencies expressly excepted from the Act by statute (other than by the general judiciary exception in section 552.003(b) of the Act), rule, or law. Examples are the Board of Legal Specialization, Tex. Gov't Code § 81.033, and the Board of Disciplinary Appeals, Tex. R. Disciplinary App. 7.12. Because these boards are expressly excepted from the Act, their records are not subject to disclosure under this rule, even though no law affirmatively makes their records confidential. The Board of Law Examiners is partly subject to the Act and partly exempt, Tex. Gov't Code § 82.003, and therefore this rule is inapplicable to it. An example of a judicial agency subject to the rule is the Supreme Court Advisory Committee, which is neither subject to nor expressly excepted from the Act, and whose records are not made confidential by any law.

2. As stated in Rule 12.4, this rule does not require the creation or retention of records, but neither does it permit the destruction of records that are required to be maintained by statute or other law, such as Tex. Gov't Code §§ 441.158-.167, .180-.203; Tex. Local Gov't Code ch. 203; and 13 Tex. Admin. Code § 7.122.

3. Rule 12.8 allows a records custodian to deny a record request that would substantially and unreasonably impede the routine operation of the court or judicial agency. As an illustration, and not by way of limitation, a request for "all judicial records" that is submitted every day or even every few days by the same person or persons acting in concert could substantially and unreasonably impede the operations of a court or judicial agency that lacked the staff to respond to such repeated requests.

4. Comment to 2008 change: The Attorney General's rule, adopted in accordance with Section 552.262 of the Government Code, is in Section 70.3 of Title I of the Texas Administrative Code.

Rule 13. Multidistrict Litigation

13.1 Authority and Applicability.

(a) *Authority.* This rule is promulgated under sections 74.161-74.164 of the Texas Government Code and chapter 90 of the Texas Civil Practices and Remedies Code.

(b) *Applicability.* This rule applies to:

(1) civil actions that involve one or more common questions of fact and that were filed in a constitutional county court, county court at law, probate court, or district court on or after September 1, 2003;

(2) civil actions filed before September 1, 2003, that involve claims for asbestos- or silica-related injuries, to the extent permitted by chapter 90 of the Texas Civil Practice and remedies Code.

(c) *Other Cases.* Cases to which this rule does not apply are governed by Rule 11 of these rules.

Comment - 2005

Subsections (a) and (b) are amended and subsection (c) is added to provide procedures for cases covered by chapter 90 of the Texas Civil Practices and Remedies Code, enacted effective September 1, 2005.

13.2 Definitions. As used in this rule:

(a) *MDL Panel* means the judicial panel on multidistrict litigation designated pursuant to section 74.161 of the Texas Government Code, including any temporary members designated by the Chief Justice of the Supreme Court of Texas in his or her discretion when regular members are unable to sit for any reason.

(b) *Chair* means the chair of the MDL Panel, who is designated by the Chief Justice of the Supreme Court of Texas.

(c) *MDL Panel Clerk* means the Clerk of the Supreme Court of Texas.

(d) *Trial court* means the court in which a case is filed.

(e) *Pretrial court* means the district court to which related cases are transferred for consolidated or coordinated pretrial proceedings under this rule.

(f) *Related* means that cases involve one or more common questions of fact.

(g) *Tag-along case* means a case related to cases in an MDL transfer order but not itself the subject of an initial MDL motion or order.

13.3 Procedure for Requesting Transfer.

(a) *Motion for Transfer; Who May File; Contents.* A party in a case may move for transfer of the case and related cases to a pretrial court. The motion must be in writing and must:

(1) state the common question or questions of fact involved in the cases;

(2) contain a clear and concise explanation of the reasons that transfer would be for the convenience of the parties and witnesses and would promote the just and efficient conduct of the cases;

(3) state whether all parties in those cases for which transfer is sought agree to the motion; and

(4) contain an appendix that lists:

(A) the cause number, style, and trial court of the related cases for which transfer is sought; and

(B) all parties in those cases and the names, addresses, telephone numbers, fax numbers, and email addresses of all counsel.

(b) *Request for Transfer by Judges.* A trial court or a presiding judge of an administrative judicial region may request a transfer of related cases to a pretrial court. The request must be in writing and must list the cases to be transferred.

(c) *Transfer on the MDL Panel's Own Initiative.* The MDL Panel may, on its own initiative, issue an order to show cause why related cases should not be transferred to a pretrial court.

(d) *Response; Reply; Who May File; When to File.* Any party in a related case may file:

(1) a response to a motion or request for transfer within twenty days after service of such motion or request;

(2) a response to an order to show cause issued under subparagraph (c) within the time provided in the order; and

(3) a reply to a response within ten days after service of such response.

(e) *Form of Motion, Response, Reply, and Other Documents.* A motion for transfer, response, reply, or other document addressed to the MDL Panel must conform to the requirements of Rule 9.4 of the Texas Rules of Appellate Procedure. Without leave of the MDL Panel, the following must not exceed 20 pages: the portions of a motion to transfer required by subparagraphs (a)(1)-(2); a response; and a reply. The MDL Panel may request additional briefing from any party.

(f) *Filing.* A motion, request, response, reply, or other document addressed to the MDL Panel must be filed with the MDL Panel Clerk. The MDL Panel Clerk may require that all documents also be transmitted to the clerk electronically. In addition, a party must send a copy of the motion, response, reply, or other document to each member of the MDL Panel.

(g) *Filing Fees.* The MDL Panel Clerk may set reasonable fees approved by the Supreme Court of Texas for filing and other services provided by the clerk.

(h) *Service.* A party must serve a motion, response, reply, or other document on all parties in related cases in which transfer is sought. The MDL Panel Clerk may designate a party or parties to serve a request for transfer on all other parties. Service is governed by Rule 9.5 of the Texas Rules of Appellate Procedure.

(i) *Notice to Trial Court.* A party must file in the trial court a notice -- in the form prescribed by the MDL Panel -- that a motion for transfer has been filed. The MDL Panel Clerk must cause such notice to be filed when a request for transfer by a judge has been filed.

(j) *Evidence.* The MDL Panel will accept as true facts stated in a motion, response, or reply unless another party contradicts them. A party may file evidence with the MDL Panel Clerk only with leave of the MDL Panel. The MDL Panel may order parties to submit evidence by affidavit or deposition and to file documents, discovery, or stipulations from related cases.

(k) *Hearing.* The MDL Panel may decide any matter on written submission or after an oral hearing before one or more of its members at a time and place of its

choosing. Notice of the date of submission or the time and place of oral hearing must be given to all parties in all related cases.

(l) *Decision.* The MDL Panel may order transfer if three members concur in a written order finding that related cases involve one or more common questions of fact, and that transfer to a specified district court will be for the convenience of the parties and witnesses and will promote the just and efficient conduct of the related cases.

(m) *Orders Signed by Chair or Clerk; Members Identified.* Every order of the MDL Panel must be signed by either the chair or by the MDL Panel Clerk, and must identify the members of the MDL Panel who concurred in the ruling.

(n) *Notice of Actions by MDL Panel.* The MDL Panel Clerk must give notice to all parties in all related cases of all actions of the MDL Panel, including orders to show cause, settings of submissions and oral arguments, and decisions. The MDL Panel Clerk may direct a party or parties to give such notice. The clerk may determine the manner in which notice is to be given, including that notice should be given only by email or fax.

(o) *Retransfer.* On its own initiative, on a party's motion, or at the request of the pretrial court, the MDL Panel may order cases transferred from one pretrial court to another pretrial court when the pretrial judge has died, resigned, been replaced at an election, requested retransfer, recused, or been disqualified, or in other circumstances when retransfer will promote the just and efficient conduct of the cases.

13.4 Effect on the Trial Court of the Filing of a Motion for Transfer.

(a) *No Automatic Stay.* The filing of a motion under this rule does not limit the jurisdiction of the trial court or suspend proceedings or orders in that court.

(b) *Stay of Proceedings.* The trial court or the MDL Panel may stay all or part of any trial court proceedings until a ruling by the MDL Panel.

13.5 Transfer to a Pretrial Court.

(a) *Transfer Effective upon Notice.* A case is deemed transferred from the trial court to the pretrial court when a notice of transfer is filed with the trial court and the pretrial court. The notice must:

(1) list all parties who have appeared and remain in the case, and the names, addresses, phone numbers, and bar numbers of their attorneys or, if a party is pro se, the party's name, address, and phone number;

(2) list those parties who have not yet appeared in the case; and

(3) attach a copy of the MDL transfer order.

(b) *No Further Action in Trial Court.* After notice of transfer is filed in the trial court, the trial court must take no further action in the case except for good cause stated in the order in which such action is taken and after conferring with the pretrial court. But service of any process already issued by the trial court may be completed and the return filed in the pretrial court.

(c) *Transfer of Files; Master File and New Files in the Pretrial Court.* If the trial court and pretrial court are in the same county, the trial court must transfer the case file to the pretrial court in accordance with local rules governing the courts of that county. If the trial court and pretrial court are not in the same county, the trial court clerk must transmit the case file to the pretrial court clerk. The pretrial court clerk, after consultation with the judge of the pretrial court, must establish a master file and open new files for each case transferred using the information provided in the notice of transfer. The pretrial court may direct the manner in which pretrial documents are filed, including electronic filing.

(d) *Filing Fees and Costs.* Unless the MDL Panel assesses costs otherwise, the party moving for transfer must pay the cost of refiling the transferred cases in the pretrial court, including filing fees and other reasonable costs.

(e) *Transfer of Tag-along Cases.* A tag-along case is deemed transferred to the pretrial court when a notice of transfer -- in the form described in Rule 13.5(a) -- is filed in both the trial court and the pretrial court. Within 30 days after service of the notice, a party to the case or to any of the related cases already transferred to the pretrial court may move the pretrial court to remand the case to the trial court on the ground that it is not a tag-along case. If the motion to remand is granted, the case must be returned to the trial court, and costs including attorney fees may be assessed by the pretrial court in its remand order. The order of the pretrial court may be appealed to the MDL Panel by a motion for rehearing filed with the MDL Panel Clerk.

13.6 Proceedings in Pretrial Court.

(a) *Judges Who May Preside.* The MDL Panel may assign as judge of the pretrial court any active district judge, or any former or retired district or appellate judge who is approved by the Chief Justice of the Supreme Court of Texas. An assignment under this rule is not subject to objection under chapter 74 of the Government Code. The judge assigned as judge of the pretrial court has exclusive jurisdiction over each related case transferred pursuant to this rule unless a case is retransferred by the MDL Panel or is finally resolved or remanded to the trial court for trial.

(b) *Authority of Pretrial Court.* The pretrial court has the authority to decide, in place of the trial court, all pretrial matters in all related cases transferred to the court. Those matters include, for example, jurisdiction, joinder, venue, discovery, trial preparation (such as motions to strike expert witnesses, preadmission of exhibits, and motions in limine), mediation, and disposition by means other than conventional trial on the merits (such as default judgment, summary judgment, and settlement). The pretrial court may set aside or modify any pretrial ruling made by the trial court before transfer

over which the trial court's plenary power would not have expired had the case not been transferred.

(c) *Case Management.* The pretrial court should apply sound judicial management methods early, continuously, and actively, based on its knowledge of each individual case and the entire litigation, in order to set fair and firm time limits tailored to ensure the expeditious resolution of each case and the just and efficient conduct of the litigation as a whole. After a case is transferred, the pretrial court should, at the earliest practical date, conduct a hearing and enter a case management order. The pretrial court should consider at the hearing, and its order should address, all matters pertinent to the conduct of the litigation, including:

(1) settling the pleadings;

(2) determining whether severance, consolidation, or coordination with other actions is desirable and whether identification of separable triable portions of the case is desirable;

(3) scheduling preliminary motions;

(4) scheduling discovery proceedings and setting appropriate limitations on discovery, including the establishment and timing of discovery procedures;

(5) issuing protective orders;

(6) scheduling alternative dispute resolution conferences;

(7) appointing organizing or liaison counsel;

(8) scheduling dispositive motions;

(9) providing for an exchange of documents, including adopting a uniform numbering system for documents, establishing a document depository, and determining whether electronic service of discovery materials and pleadings is warranted;

(10) determining if the use of technology, videoconferencing, or teleconferencing is appropriate;

(11) considering such other matters the court or the parties deem appropriate for the just and efficient resolution of the cases; and

(12) scheduling further conferences as necessary.

(d) *Trial Settings.* The pretrial court, in conjunction with the trial court, may set a transferred case for trial at such a time and on such a date as will promote the

convenience of the parties and witnesses and the just and efficient disposition of all related proceedings. The pretrial court must confer, or order the parties to confer, with the trial court regarding potential trial settings or other matters regarding remand. The trial court must cooperate reasonably with the pretrial court, and the pretrial court must defer appropriately to the trial court's docket. The trial court must not continue or postpone a trial setting without the concurrence of the pretrial court.

13.7 Remand to Trial Court.

(a) *No Remand if Final Disposition by Pretrial Court.* A case in which the pretrial court has rendered a final and appealable judgment will not be remanded to the trial court.

(b) *Remand.* The pretrial court may order remand of one or more cases, or separable triable portions of cases, when pretrial proceedings have been completed to such a degree that the purposes of the transfer have been fulfilled or no longer apply.

(c) *Transfer of Files.* When a case is remanded to the trial court, the clerk of the pretrial court will send the case file to the trial court without retaining a copy unless otherwise ordered. The parties may file in the remanded case copies of any pleadings or orders from the pretrial court's master file. The clerk of the trial court will reopen the trial court file under the cause number of the trial court, without a new filing fee.

13.8 Pretrial Court Orders Binding in the Trial Court After Remand.

(a) *Generally.* The trial court should recognize that to alter a pretrial court order without a compelling justification would frustrate the purpose of consolidated and coordinated pretrial proceedings. The pretrial court should recognize that its rulings should not unwisely restrict a trial court from responding to circumstances that arise following remand.

(b) *Concurrence of the Pretrial Court Required to Change Its Orders.* Without the written concurrence of the pretrial court, the trial court cannot, over objection, vacate, set aside, or modify pretrial court orders, including orders related to summary judgment, jurisdiction, venue, joinder, special exceptions, discovery, sanctions related to pretrial proceedings, privileges, the admissibility of expert testimony, and scheduling.

(c) *Exceptions.* The trial court need not obtain the written concurrence of the pretrial court to vacate, set aside, or modify pretrial court orders regarding the admissibility of evidence at trial (other than expert evidence) when necessary because of changed circumstances, to correct an error of law, or to prevent manifest injustice. But the trial court must support its action with specific findings and conclusions in a written order or stated on the record.

(d) *Unavailability of Pretrial Court.* If the pretrial court is unavailable to rule, for whatever reason, the concurrence of the MDL Panel Chair must be obtained.

13.9 Review.

(a) *MDL Panel Decision.* An order of the MDL Panel, including one granting or denying a motion for transfer, may be reviewed only by the Supreme Court in an original proceeding.

(b) *Orders by the Trial Court and Pretrial Court.* An order or judgment of the trial court or pretrial court may be reviewed by the appellate court that regularly reviews orders of the court in which the case is pending at the time review is sought, irrespective of whether that court issued the order or judgment to be reviewed. A case involving such review may not be transferred for purposes of docket equalization among appellate courts.

(c) *Review Expedited.* An appellate court must expedite review of an order or judgment in a case pending in a pretrial court.

Comment - 2005

Subsection (b) is amended and subsection (c) is added to clarify the handling of appeals by appellate courts. Subsection (b) forbids transfer for docket equalization but not for other purposes that might arise. Subsection (c) does not require that an appeal from an order or judgment of a case pending in a pretrial court be treated as an accelerated appeal under the Texas Rules of Appellate Procedure if it would otherwise not be accelerated. Rather, subsection (c) requires expedited consideration by the appellate court regardless of whether review is sought by an appeal that is or is not accelerated, or by mandamus.

13.10 MDL Panel Rules. The MDL Panel will operate at the direction of its Chair in accordance with rules prescribed by the panel and approved by the Supreme Court of Texas.

13.11 Civil Actions Filed Before September 1, 2003, Involving Claims for Asbestos- and Silica-Related Injuries.

(a) *Applicability.* To the extent permitted by chapter 90 of the Texas Civil Practice and Remedies Code, Rule 13.11 applies to civil actions filed before September 1, 2003, that involve claims for asbestos- or silica-related injuries.

(b) *Statutory Reference; Definitions.* Statutory references in Rule 13.11 are to chapter 90 of the Texas Civil Practice and Remedies Code. "Claimant" has the meaning assigned in section 90.001(6). "Report" has the meaning assigned in section 90.001(24).

(c) *Notice to Transfer Under Section 90.011(b).* A notice of transfer under section 90.010(b) must be filed in the trial court and the pretrial court and must:

(1) be titled "Notice of Transfer Under Section 90.010(b)";

(2) list all parties who have appeared and remain in the case, and the names, addresses, phone numbers, and bar numbers of their attorneys or, if a party is pro se, the party's name, address and phone number;

(3) state the name of each claimant transferred;

(4) attach to the notice filed in the pretrial court a copy of the claimant's live petition; and

(5) if filed by a defendant, contain a certificate stating that the filing party conferred, or at least made a reasonable attempt to confer, with opposing counsel about whether the notice of transfer is appropriate as to each individual claimant transferred.

(d) *Effect on Pending Motion for Severance.* If, when a notice of transfer is filed in the trial court, a motion for severance has been filed but the trial court has not ruled, the trial court must rule on the motion within 14 days of the date the notice of transfer is filed, or the motion is deemed granted by operation of law.

(e) *When Transfer Effective.* A case is deemed transferred from the trial court to the pretrial court when a notice of transfer is filed with the trial court unless a motion for severance is pending. If a motion for severance is pending when a notice of transfer is filed with the trial court, a case is deemed transferred when the trial court rules on the motion or the motion is deemed granted by operation of law.

(f) *Further Action in Trial Court Limited.* After a notice of transfer is filed, the trial court must take no further action in the case except:

(1) to rule on a motion for severance pending when the notice of transfer was filed, or

(2) for good cause stated in the order in which such action is taken and after conferring with the pretrial court.

But service of any process already issued by the trial court may be completed and the return filed in the pretrial court.

(g) *Severed Case File.* If a claim is severed from a case that includes one or more claimants covered by section 90.010(a), the file for the severed claims in the trial court should be numerically linked to the original case file and should contain only the live petition containing the severed claim. The severed case file is deemed to include all papers in the original case file. The pretrial court may require a different procedure in the interests of justice and efficiency.

(h) *Transfer of Files.* The pretrial court may order the trial court clerk to transfer a case file to the pretrial court. A case file must not be transferred to the pretrial court except as ordered by that court.

(i) *Filing Fees and Costs.* A defendant who files a notice of transfer must pay the cost of filing the case in the pretrial court, including filing fees and other reasonable costs. If the pretrial court remands the case to the trial court, the pretrial court may order that costs be allocated between the parties in a way that encourages just and efficient compliance with this rule, and may award appropriate and reasonable attorney fees.

Comments - 2005

1. Rule 13.11 is added to provide procedures for cases covered by chapter 90 of the Texas Civil Practice and Remedies Code, enacted effective September 1, 2005.

2. The rule does not require a statement in the notice of transfer that no report has been served under chapter 90, or that a report has been served but does not comply with the provisions of that statute. The omission of such a requirement in the notice of transfer is not intended to limit the pretrial court's authority under Rule 166 of the Texas Rules of Civil Procedure to employ appropriate procedures to ascertain a party's position on the issue.

3. It is anticipated that the party filing a notice of transfer will usually be a defendant, and that the party filing a motion for severance will usually be a claimant. Ordinarily, a party filing the notice of transfer is responsible for filing fees and costs in the pretrial court, although there may be exceptions. See Rule 13.5(d). Also, a party who successfully moves to sever a claim into a separate proceeding in the trial court is customarily responsible for filing fees and costs, although severance is "on such terms as are just", Tex. R. Civ. P. 41, and again, there may be exceptions. The intent of this rule is that severance and transfer procedures minimize costs and burdens on parties and the courts.

4. A pretrial court has discretion under Rule 13.11(g)-(i) to order the maintenance and transfer of physical case files and to allocate costs and fees so as to minimize costs and burdens on parties and the courts.

Rule 14. Statewide Certification to Serve Civil Process

14.1 Purpose

Under Rules 103 and 536 of the Texas Rules of Civil Procedure, as amended effective July 1, 2005, civil process may be served by—in addition to sheriffs and constables and other persons authorized by law, and persons at least 18 years of age authorized by written order of court—"any person certified under order of the Supreme Court." To improve the standards of practice for private service of process, and to provide a list of persons eligible to serve process in trial courts statewide, the Court—

simultaneous with amending Rules 103 and 536—also issued companion orders creating the Process Server Review Board and establishing the basic framework for certification and revocation thereof by the Board. This Rule is intended to build upon that framework by implementing specific procedures to guide the Board's actions in processing applications, investigating complaints regarding certified process servers, and determining disciplinary action under appropriate circumstances.

14.2 Definitions

(a) *Board* means the Process Server Review Board.

(b) *Chair* means the Chair of the Board, as appointed by the Supreme Court.

14.3 General Provisions

(a) *Membership of Board*. Members of the Board are appointed by the Supreme Court of Texas. Unless an appointment order specifies otherwise, members are appointed to a three-year term.

(b) *General Procedure.*

(1) A majority of members of the Board shall constitute a quorum.

(2) After a quorum has been established at a Board meeting, the Board may decide, upon a majority vote of those present, any matter properly before it.

(3) The Chair or his/her designee shall preside at Board meetings.

(4) The Board may, in its discretion, grant continuances with regard to hearings and other matters before the Board.

(5) The Office of Court Administration shall provide clerical assistance to the Board.

(c) *Methods of Service.*

(1) Service of any written notice or other document required to be served under this Rule may be accomplished:

(A) by delivering a copy to the person to be served, or their attorney, either in person or by agent or by courier receipted delivery or by registered or certified mail, to the person's last known address; or

(B) by fax, to the person's current fax number.

(2) Service by mail shall be complete upon deposit of the notice or other paper, enclosed in a postage-paid, properly addressed envelope, in a post office or official depository under the care and custody of the United States Post Office. Service by fax shall be complete upon confirmation of receipt. Service by fax after 5:00 p.m. local time of the recipient shall be deemed served on the following day.

(d) *Counting Time*.

In computing any period of time prescribed or allowed by this Rule, the day of the act, event, or default after which the designated period of time begins to run is not included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. Saturdays, Sundays, and legal holidays shall otherwise be counted for purposes of calculating time periods under this Rule, unless the time period is for five days or less, in which case Saturdays, Sundays, and legal holidays shall not be counted for any purpose.

14.4 Certification

(a) *Application.*

(1) A person seeking statewide certification must file with the Clerk of the Supreme Court a sworn application in the form prescribed by the Supreme Court, available from the Clerk of the Court or on the Court's website.

(2) The application must contain a statement indicating whether the applicant has ever been convicted of a felony or of a misdemeanor involving moral turpitude. The application must include a criminal history record obtained within the preceding 90 days from the Texas Department of Public Safety in Austin, Texas. If an applicant's criminal history reflects legal proceedings for which a final disposition is not clearly show, the applicant bears the burden of establishing that he or she has not been convicted of a felony or of a misdemeanor involving moral turpitude. The Board may deny certification to an applicant convicted of a felony or of a misdemeanor involving moral turpitude. If an applicant's criminal history reflect that the applicant was charged with a felony or a misdemeanor involving moral turpitude and the charges resulted in an outcome other than acquittal or conviction (such as pretrial diversion, probation, deferred adjudication, community supervision, or similar result), the Board may consider such history in determining whether the application should be granted.

(3) The application must include a certificate from the director of a civil process service course, approved for certification in every state court pursuant to Supreme Court order, stating that the applicant has completed the approved course within the prior year. The applicant bears the burden of establishing that he or she has completed within the prior year a course approved for certification in every state court pursuant to Supreme Court order.

(b) *Review of Application; Rejection; Approval*.

(1) Applications shall be reviewed and either approved by the Board or rejected for good cause stated. In appropriate circumstances, the

Board may approve applications on a conditional or probationary basis.

(2) The Board may, upon request, allow an applicant with criminal history to appear before the Board and provide oral testimony, documentation, or other information pertinent to the applicant's criminal history. Testimony must be given under penalty of perjury. The Board may limit the number of witnesses appearing and the time allotted for a witness's testimony.

(3) The Board shall promptly notify each applicant in writing of its decision. For applicants rejected, and for applicants approved on a conditional or probationary basis, the Board shall specify the good cause for its decision.

(4) An applicant who is dissatisfied with the Board's decision regarding his or her application may appeal the Board's decision as provided in Rule 14.7, but must first request reconsideration of the decision as provided in Rule 14.6.

(5) For each person certified, the Board shall post on a list maintained on the Supreme Court website the person's name and an assigned identification number.

(6) Certification is effective for three years from the last day of the month it issues, unless revoked or suspended under this Rule.

(c) *Renewal of Certification*.

(1) A certified process server desiring to renew an existing certification must file with the Board a new application, including a current criminal history statement, criminal history record, and course certificate as specified under Rule 14.4(a).

(2) A certified process server who desires to avoid any lapse in certification during renewal should submit a completed application no sooner than ninety days before the expiration date defined under Rule 14.4(b)(6), and no later than forty-five days before the expiration date. Renewal applications filed more than ninety days before the expiration date will not be processed. However, this provision does not guarantee that a timely filed renewal application will be approved prior to expiration of an existing certification, and it is the responsibility of each process server to ensure, prior to serving any process under statewide certification, that his or her statewide certification remains in effect.

14.5 Disciplinary Actions

(a) *Conduct Subject to Disciplinary Action*. The Board may revoke or suspend any certification issued under this Rule, or issue a letter of reprimand to a certified process server, on a verified complaint after notice and opportunity to respond, for:

(1) conviction of a felony offense, or of a misdemeanor offense involving moral turpitude; or
(2) other good cause as determined by the Board.

A certified process server who, after obtaining statewide certification, is convicted of a felony offense or of a misdemeanor offense involving moral turpitude shall immediately notify the Clerk of the Supreme Court and cease to serve process pursuant to his or her statewide certification.

(b) *Filing of Complaint Against Certified Process Server*.

(1) A person desiring to make a complaint against a certified process server shall use the official complaint form approved by the Board and provided on the Court's website.
(2) The complaint shall be completed and signed under oath, with all pertinent documentary evidence attached thereto, and submitted to the Board's mailing address provided on the Court's website.
(3) Upon receipt of a properly executed complaint, the Board shall furnish to the certified process server against whom the complaint was filed copies of the complaint and any original attachments thereto, as well as notice stating: (1) the date the Board is scheduled to consider the complaint; (2) that the Board may revoke the process server's statewide certification or impose other disciplinary action after investigation and consideration of the complaint and any written response submitted by the process server and received by the Board at least three business days prior to the meeting at which the complaint will be considered; and (3) that the Board may allow the complainant, the process server, and any fact or character witness to appear at the meeting and present oral testimony.
(4) The Board may undertake an investigation on its own initiative based upon a credible report or findings of a judicial officer describing conduct that could be subject to disciplinary action under this Rule.

(c) *Investigation of Complaints.*

(1) A complaint committee consisting of three or more Board members named by the Chair, or any Board members designated by the Chair to perform this duty ad hoc, shall investigate properly executed complaints and determine if they are supported by credible evidence.
(2) Following investigation, the status of a complaint shall be reported to the Board at its next regularly scheduled meeting, or as soon as practicable thereafter, by the head of the complaint committee or any other member designated by the Chair to investigate the complaint.

(d) *Hearing of Complaints*.

(1) Any written response submitted by the process server, including any additional documentary evidence, must be received by the Board at least three business days prior to the meeting at which the complaint will be considered.

(2) In addition to any written response submitted under subsection (1), the Board may allow the complainant, the process server, and any fact or character witness to appear at the meeting and present oral testimony. Testimony must be given under penalty of perjury. The Board may limit the number of witnesses appearing and the time allotted for a witness's testimony.

(3) After hearing a report on a complaint, and considering any written response timely submitted by the process server against whom the complaint was filed, and any testimony, the Board shall vote on the status of the complaint, unless such determination is continued until another Board meeting for good cause.

(4) The Board shall serve upon the affected process server notice of the Board's determination regarding the complaint and any disciplinary action imposed. In its written statement, he Board must specify the good cause for disciplinary action.

(5) A process server who is dissatisfied with a Board decision imposing disciplinary action may appeal the Board's decision as provided in Rule 14.7, but must first request reconsideration of the decision as provided in Rule 14.6.

(6) Unless the Board directs otherwise, imposition of any disciplinary action is effective immediately following a majority vote to impose that action and is not stayed pending appeal.

(7) Complaints determined by the Board to be unsubstantiated or unfounded shall be dismissed.

(8) Nothing in this provision shall preclude negotiation of an agreed disciplinary resolution either before or after a complaint is considered by the Board. An agreed disciplinary resolution shall not be effective until approved by the Board.

14.6 Reconsideration of Board Decisions

(a) *Request for Reconsideration*.

(1) Any certified process server may request reconsideration of a decision by the Board pertaining to an application for certification or a disciplinary action.

(2) A reconsideration request must be in writing and must be received by the Board within thirty (30) days after the date the Board serves notice of the decision for which reconsideration is requested.

(3) The request must identify the process server and the decision of the Board for which reconsideration is requested, and must succinctly state the reason for reconsideration.

(b) *Reconsideration Procedure.*

(1) After receiving a request for reconsideration, the Chair will place the matter on the agenda for the next scheduled meeting of the Board.

(2) The Board may allow the process server seeking reconsideration to appear at the meeting and present additional testimony. Testimony must be given under penalty of perjury. The Board may limit the number of witnesses appearing and the time allotted for a witness's testimony.

(3) After reconsidering a decision, the Board shall vote on the matter unless such determination is continued until another Board meeting for good cause.

(4) The Board must send the process server written notice stating its decision on reconsideration.

(c) *Request for Reconsideration Is Necessary Prerequisite for Appeal.* A request for reconsideration is a necessary prerequisite to filing an appeal of a Board decision under Rule 14.7.

14.7 Appeal of Board Decisions

(a) *Procedure for Appealing*.

(1) Any certified process server seeking to appeal a Board decision pertaining to an application for certification or a disciplinary action shall submit a written appeal of such decision to the General Counsel for the Office of Court Administration within thirty (30) days after the date the written decision is served upon the process server. The appeal should be addressed to the General Counsel at the mailing address listed on the "Contact Information" page of OCA's website, currently located at http://www.courts.state.tx.us/oca/contact.asp.

(2) The General Counsel shall promptly forward the appeal to a special committee of three Administrative Regional Presiding Judges, *see* Tex. Gov't Code §74.041. The committee shall be chosen on a basis pre-determined by the Presiding Judges, but shall not include the Presiding Judge for the Administrative Region in which the appellant resided at the time of the Board's decision.

(3) The General Counsel shall notify the Board of the filing of an appeal and, upon request, shall make the appeal materials available to the Board or its legal representative.

(4) The appeal must be in a form, or pursuant to a policy, approved by the Regional Presiding Judges, if an appellate form or a policy has been approved by the Regional Presiding Judges. If no appellate form or policy has been approved, the appeal need not be in any particular form, but it must contain (1) a copy of the notice of the

Board's decision with which the process server is dissatisfied; (2) a statement succinctly explaining why the process server is dissatisfied with the Board's decision; and (3) a copy of the Board's notice reflecting its decision on reconsideration.

(5) The Office of Court Administration shall adopt rules or policies to ensure that any OCA employee who provides clerical, administrative, or other direct support to the Board does not communicate regarding the substance of any appeal under this Rule with any other OCA employee who facilitates the appeal process under this Rule. The rules or policies shall also provide that OCA employees may communicate regarding non-substantive aspects of appeals, such as to ensure the completeness and accuracy of appeal materials to be forwarded to the special committee.

(b) *Consideration of Appeal.*

(1) Upon receiving notice of an appeal of a disciplinary action, the Board shall provide to the General Counsel, and the General Counsel shall submit to the special committee, electronic or paper copies of (1) the complaint and any original attachments; (2) any written response timely submitted by the process server; (3) notice of the Board's decision imposing disciplinary action; (4) the Board's notice reflecting its decision on reconsideration; and (5) any other documents or written evidence considered by the Board pertaining to the decision complained of on appeal. The Board shall provide a copy of any of the above items (1)-(5) to an appellant upon request, and may charge costs for such copies as set forth in Rule 12.7 of the Rules of Judicial Administration.

(2) Upon receiving notice of an appeal of a decision denying application for certification, the Board shall provide to the General Counsel, and the General Counsel shall submit to the special committee, electronic or paper copies of (1) the process server's application for statewide certification, including a record of the applicant's criminal history from the Department of Public Safety; (2) a written statement of the Board's decision denying the application; (3) any additional documentation considered by the Board related to the applicant's criminal history; (4) the Board's notice reflecting its decision on reconsideration; and (5) any other documents or written evidence considered by the Board pertaining to the decision complained of on appeal. The Board shall provide a copy of any of the above items (1)-(5) to an appellant upon request, and may charge costs for such copies as set forth in Rule 12.7 of the Rules of Judicial Administration.

(3) The special committee shall consider the appeal under an abuse of discretion standard for all issues except those involving pure questions of law, for which the standard of review shall be de

novo. Under either standard, the burden is on the appellant to establish that the Board's decision was erroneous.

(4) Absent approval by the special committee, submission of materials other than those described under Rule 14.7(b)(1)-(2) is prohibited. The special committee may, in its sole discretion, allow a process server to submit additional written materials relating to the appeal. Otherwise, only the written materials described under Rule 14.7(b)(1)-(2) will be considered. A request to submit additional materials must clearly identify the additional materials for which inclusion is requested.

(5) The special committee may consider the appeal without a hearing, and may conduct its deliberations by any appropriate means. The special committee may, in its sole discretion, conduct a hearing and allow testimony from the affected process server or any other person with knowledge of the underlying facts relating to the application or the disciplinary action complained of.

(6) After consideration of the appeal, the special committee shall notify the Board and the process server in writing of its decision either affirming or reversing the Board's decision. No rehearing or further appeal shall be allowed.

Rule 15. Appeals from Trial Courts in Counties Assigned to Multiple Appellate Districts.

15.1 Applicability. This rule applies to appeals from an order or judgment issued by a trial court in a county assigned by law to more than one court of appeals district unless assignment of such appeals is governed by statute. This rule does not apply to appeals to the Courts of Appeals for the First and Fourteenth Districts from trial courts in counties in those districts, as assignment of such appeals is governed by statute.

15.2 When Consolidation Required. If notices of appeal filed by two or more parties from a single judgment or order designate different courts of appeals that have jurisdiction of the appeal because the county in which the trial court sits is assigned to more than one appellate district, the appeals must be consolidated in one of the courts of appeals.

15.3 Consolidation by Agreement; Notice to Courts of Appeals.

(a) *Appealing Parties to Confer Regarding Consolidation.* When any appealing party learns that two or more parties have properly designated different courts of appeals, that party must promptly confer with lead counsel for all other appealing parties (if represented, otherwise counsel must confer with the pro se party) and determine if all appealing parties will agree to consolidate the appeals in one of the courts of appeals.

(b) *Time to Provide Notice.* No later than 30 days — 20 days in an accelerated appeal — after the filing date of the first-filed notice of appeal described in paragraph (a), the parties must submit to the clerks of both courts of appeals written notice either of the appealing parties' agreement to consolidate the appeals or of the appealing parties' inability to reach agreement regarding consolidation.

(c) *Contents of Notice.* The notice must identify each appealing party and the party's counsel (if represented, or state that the party is pro se), and must either identify the court of appeals designated by agreement or state that the appealing parties were unable to agree to consolidate all appeals in a particular court. The notice must also contain a certificate stating that the filing parties conferred, or made a reasonable attempt to confer, with all other appealing parties regarding consolidation of the appeals. If the notice states that all appealing parties have agreed to consolidation, it must identify every party or party's attorney who agreed to the consolidation.

(d) *Consolidation by Agreement of All Appealing Parties.* If the clerks of both courts of appeals receive notice that all appealing parties have agreed to consolidation, the chief justices of both courts will request the Chief Justice of the Supreme Court to transfer all pending appeals in the case to the court of appeals designated by the parties' agreement.

15.4 Consolidation When Appealing Parties Unable to Agree.

(a) *Clerks of Courts of Appeals to Jointly Notify Trial Court Clerk.*

(1) If both courts of appeals receive notice of the appealing parties' inability to reach agreement regarding consolidation, the clerks of both appellate courts must jointly notify the clerk of the trial court in writing of that fact.

(2) If the period described in Rule 15.3(b) has passed and the clerks of the two courts of appeals have not received any notice from the appealing parties regarding consolidation, the chief justices of the two courts of appeals shall confer and instruct the clerks of their respective courts to jointly notify the clerk of the trial court in writing that the appealing parties failed to timely submit notice of agreement regarding consolidation, and instruct the clerk to perform the selection process in Rule 15.4(b).

(b) *Consolidation by Trial Court Clerk.* After the trial court clerk receives notice from the clerks of the courts of appeals regarding either the appealing parties' inability to reach agreement as to consolidation or their failure to timely submit notice of agreement, the clerk shall write the numbers of the two courts of appeals on identical slips of paper and place

the slips in a container folded in half or otherwise arranged so that the numbers are completely hidden from view. The trial court clerk shall draw a number from the container at random, in a public place, and shall assign the case to the court of appeals for the corresponding number drawn.

15.5 All Appeals From Same Judgment or Order to be Consolidated Together. When appeals to multiple courts of appeals have been consolidated pursuant to this rule, other parties' appeals from the same judgment or order underlying the consolidated appeals must be assigned to the same court of appeals in which the previous appeals were consolidated.

Comment

Assignments to the Courts of Appeals for the First and Fourteenth Districts are governed by Tex. Gov't Code § 22.202(h).

Rule 16. Additional Resources for Certain Cases

16.1 Authority and Applicability.

(a) *Authority*. This rule is promulgated under Sections 74.251-74.257 of the Government Code.

(b) *Applicability*. This rule applies to civil actions pending on or after May 1, 2012, in a constitutional county court, county court at law, probate court, or district court and that may require additional judicial resources.

(c) *Other Cases*. This rule does not apply to:

(1) criminal matters;
(2) grants for local court improvement under Section 72.029 of the Government Code;
(3) cases in which judicial review is sought under Chapter 2001, Subchapter G, of the Government Code; or
(4) cases that have been transferred by the judicial panel on multidistrict litigation to a district court for consolidated or coordinated pretrial proceedings under Chapter 74, Subchapter H, of the Government Code.

16.2 Definitions.

As used in this rule:

(a) *Judicial Committee for Additional Resources (JCAR)* means the judicial committee designated pursuant to Section 74.254 of the Government Code,

including the chief justice of the Supreme Court of Texas and the presiding judges of the administrative judicial regions.

(b) *JCAR Clerk* means the Administrative Director of the Office of Court Administration (OCA).

(c) *Presiding Officer* means the Chief Justice of the Supreme Court of Texas.

(d) *Trial court* means the judge of the court in which a case is filed or assigned.

16.3 Duties of the Office of Court Administration.

(a) OCA will assist the JCAR in carrying out its duties under this rule by:

(1) providing support staff, meeting facilities, or technology to the JCAR;
(2) requesting appropriations for additional judicial resources from the legislature; and
(3) providing additional resources approved by the JCAR to the trial court.

(b) The JCAR Clerk must file any requests for additional resources, and any written determination by a presiding judge or the JCAR of such a request, made pursuant to this rule.

(c) At the conclusion of any case where additional resources were made available under this rule, OCA must prepare and file with the JCAR Clerk a report stating the additional resources provided and their estimated costs.

16.4 Considerations for Determining Whether a Case Requires Additional Resources.

In determining whether a case requires additional judicial resources, the trial court, presiding judge of the administrative judicial region in which the case is filed, and JCAR may consider whether a case involves or is likely to involve:

(a) a large number of parties who are separately represented by counsel;
(b) coordination with related actions pending in one or more courts in other counties of this state or in one or more United States district courts;
(c) numerous pre-trial motions that present difficult or novel legal issues that will be time consuming to resolve;
(d) a large number of witnesses or substantial documentary evidence;
(e) substantial post-judgment supervision;
(f) a trial that will last more than four weeks; or

(g) a substantial additional burden on the trial court's docket and the resources available to the trial court to hear the case.

16.5 Additional Resources.

One or more of the following resources may be made available under this rule:

(a) the assignment of an active or retired judge, subject to the consent of the trial court;
(b) additional legal, administrative, or clerical personnel;
(c) information and communication technology, including case management software, video teleconferencing, and specially designed courtroom presentation hardware or software to facilitate presentation of the evidence to the trier of fact;
(d) specialized continuing legal education;
(e) an associate judge;
(f) special accommodations or furnishings for the parties;
(g) other services or items determined necessary to try the case; and
(h) any other appropriate resources.

16.6 Procedure for Requesting Additional Resources.

(a) *Motion for Additional Resources*. A party in a case may move for the case to be designated as a case requiring additional resources. The motion must be in writing and must state:

(1) how the case involves or is likely to involve considerations that justify additional judicial resources;
(2) what additional judicial resources will promote the just and efficient conduct of the case;
(3) the time by which the additional resources are needed; and
(4) whether all parties in the case agree to the motion.

(b) *Determination by Trial Court*. The trial court, upon motion complying with subparagraph (a), or on its own initiative, must determine whether a case will require additional resources.

(c) *Request for Additional Judicial Resources*. If the trial court determines that a case requires additional resources under this rule it must:

(1) prepare a written request that states the nature of the case, the requested resources, and why the resources are needed;
(2) submit the request to the presiding judge of the administrative region in which the case is filed; and
(3) forward a copy of the request to the JCAR Clerk at the mailing address or email address listed on the "Contact Information" page of OCA's website.

(d) *Notice of Request for Additional Resources*. Upon receiving a request for additional resources, the JCAR clerk must send a copy of the request to the JCAR. Within 15 days of receiving the request, the presiding judge of the affected administrative judicial region or the JCAR Clerk must provide notice to the trial court of any action on the request, even if to report the inability to take action.

16.7 Review of Request for Additional Resources.

(a) *Review by Presiding Judge of Administrative Judicial Region*. Upon receipt, the presiding judge of the administrative judicial region in which the case is filed must review the trial court's request for additional resources. If the presiding judge agrees with the trial court's determination that the case requires additional resources, the presiding judge must:

(1) use resources previously allotted to the presiding judge, if the resources are permitted to be used for the purpose requested; or

(2) submit a request for additional resources to the JCAR.

(b) *Review by the JCAR*. If the presiding judge of the administrative judicial region in which the case is filed submits a request for additional resources to the JCAR under subparagraph (a)(2), the JCAR must determine whether the case requires additional resources. If the JCAR determines additional resources are required, the JCAR may make available any resources the JCAR considers necessary or appropriate.

(c) *Notice of Determination of Request*. The presiding judge of the administrative judicial region in which the case is filed or, if a request is submitted to the JCAR under subparagraph (a)(2), the JCAR must notify the JCAR Clerk in writing upon approval or denial of a request for additional resources. On receipt of such notice, the JCAR Clerk must transmit a copy to the affected trial court.

16.8 Implementation of Additional Resources.

If the JCAR determines that a case requires additional resources, the presiding judge of the administrative judicial region in which the case is filed and the Office of Court Administration must cooperate with the trial court or its designee in providing the approved additional resources.

16.9 Effect of Motion for Additional Resources.

(a) *Jurisdiction*. The filing of a motion under this rule does not deprive the trial court of jurisdiction or suspend proceedings or orders in that court.

(b) *No Stay or Continuance of Proceedings*. The filing of a motion under this rule is not grounds for a stay or continuance of the proceedings during the period the motion or request is being considered.

16.10 Review of Determinations by the Trial Court, Presiding Judge or JCAR.

A determination by the trial court, the presiding judge of the administrative region, or the JCAR of a request or motion for additional resources is not appealable or subject to review by mandamus.

16.11 Provisions for Additional Resources.

(a) *Costs for Additional Resources*. The costs for additional resources provided under this rule must be paid by the state and must not be taxed against any party in the case for which the resources are provided or against the county in which the case is pending.

(b) *Appropriations for Additional Resources*. Additional resources are subject to the availability of appropriations made by the legislature or as provided through budget execution authority or other budget adjustment method, or from funds made available by grants or donations.

Comment

Rule 16 is added to provide procedures for cases that require additional resources, as mandated by sections 74.252-74.257 of the Government Code, enacted effective January 1, 2012. The procedures in Rule 16 are not exclusive; judges may still be assigned as provided for in sections 74.052-74.062 of the Government Code.